



UTAH DEPARTMENT OF WORKFORCE SERVICES

Utah's Job Connection

Key Points:

- Endorsed by the Employment Advisory Council.
- Continues Social Security offset of 50 percent.
- Charges employers for benefit costs attributable to this provision.
- Amends the non-conforming charging language in Utah Code 35A-4-401.
 - Committee Bill

Senate Sponsor:
Senator John W. "Bill" Hickman

Co-sponsor:

House Sponsor:

Co-sponsor:

BILL #: SB 11

TITLE: UNEMPLOYMENT COMPENSATION SOCIAL SECURITY OFFSET

SUMMARY:

Section 35A-4-401

- House Bill 8 of the 2004 General Session provided that only 50 percent of an individual's Social Security retirement benefit would be used to offset (reduce) an individual's unemployment compensation benefit entitlement.
- Prior to the law change, 100 percent of the Social Security benefits were used to reduce one's potential unemployment compensation benefit amount.
- The law was scheduled to sunset after 3 years. HB 18 of the 2006 General Session voted to extend the sunset provision an additional four years.
- HB 18 also codified that all benefit costs attributable to this provision will be charged to federal Reed Act Funds.
- DWS was notified in May 2006 by the U.S. Department of Labor that Utah's non-charging provision does not conform to federal law; all benefit costs must be charged back to the employer causing the unemployment, not to the federal Reed Act Funds.
- Approximately \$930,000 (representing 1,000 unemployment compensation claimants and 700 employers) was charged to Reed Act Funds in fiscal years 2005 and 2006 combined. It is anticipated that future years will cost a similar amount provided the unemployment rates remain at a similar level.

National Trend for 2006:

- Ohio, Puerto Rico and the Virgin Islands have a 100 percent offset. (Ohio has drafted legislation for changing to a 50 percent offset).
- 9 states currently have a 50 percent social security offset.
- 41 states currently have a no social security offset.

For more information contact:

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1 **UNEMPLOYMENT COMPENSATION - SOCIAL**
2 **SECURITY OFFSET**

3 2007 GENERAL SESSION

4 STATE OF UTAH

5
6 **LONG TITLE**

7 **General Description:**

8 This bill modifies employment security provisions of the Utah Workforce Services
9 Code related to unemployment benefits and eligibility.

10 **Highlighted Provisions:**

11 This bill:

12 ☐ removes the provision that provides for the 50% Social Security benefits offset to
13 an individual's weekly unemployment benefit amount to be funded from federal
14 Reed Act moneys; and

15 ☐ makes certain technical changes.

16 **Monies Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 **AMENDS:**

22 **35A-4-401**, as last amended by Chapter 74, Laws of Utah 2006

23
24 *Be it enacted by the Legislature of the state of Utah:*

25 Section 1. Section **35A-4-401**

26 is amended to read:

27 **35A-4-401. Benefits -- Weekly benefit amount -- Computation of benefits --**

28 **Department to prescribe rules -- Notification of benefits -- Bonuses.**

29 (1) (a) Benefits are payable from the fund to ~~any~~ an individual who is or becomes
30 unemployed and eligible for benefits.

31 (b) All benefits shall be paid through the employment offices or other agencies
32 designated by the division in accordance with ~~the~~ rules the department may prescribe in
33 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

34 (2) (a) An individual's "weekly benefit amount" is an amount equal to 1/26th,
35 disregarding any fraction of \$1, of the individual's total wages for insured work paid during
36 that quarter of the base period in which the total wages were highest.

37 (b) The weekly benefit amount may not exceed the amount determined as follows:

38 (i) with respect to an individual whose benefit year commences on or after January 1,
39 2001, 65% of the "insured average fiscal year weekly wage" during the preceding fiscal year,

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40 e.g., fiscal year 2000 for individuals establishing benefit years in 2001, disregarding any
41 fraction of \$1, constitutes the maximum "weekly benefit amount" payable.

42 (ii) with respect to an individual who files a claim for benefits on or after July 4, 2004,
43 62.5% of the insured average fiscal year weekly wage during the preceding fiscal year,
44 disregarding any fraction of \$1, constitutes the maximum weekly benefit amount payable.

45 (c) (i) Except as otherwise provided in Subsection (2)(c)(ii), the "weekly benefit
46 amount" of an individual who is receiving, or who is eligible to receive, based upon the
47 individual's previous employment, a pension, which includes a governmental, social security,
48 or other pension, retirement or disability retirement pay, under a plan maintained or
49 contributed to by a base-period employer is the "weekly benefit amount" which is computed
50 under this section less 100% of the retirement benefits, that are attributable to a week,
51 disregarding any fraction of \$1.

52 (ii) ~~[(A)]~~ With respect to an individual whose benefit year begins after July 1, 2004,
53 and ends on or before July 1, 2011, the "weekly benefit amount" of that individual, who is
54 receiving or who is eligible to receive Social Security benefits based upon the individual's
55 previous employment, is the "weekly benefit amount" which is computed under this section
56 less 50% of the individual's Social Security benefits that are attributable to the week, but not
57 below zero.

58 ~~[(B) An employer is not liable for additional benefits paid as a result of this Subsection~~
59 ~~(2)(c)(ii).]~~

60 ~~[(C) The department shall fund those costs from Reed Act moneys.]~~

61 (d) (i) (A) The weekly benefit amount and the potential benefits payable to an
62 individual who, subsequent to the commencement of ~~[his]~~ the individual's benefit year,
63 becomes or is determined to be eligible to receive retirement benefits or increased retirement
64 benefits, shall be recomputed effective with the first calendar week during ~~[his]~~ the individual's
65 benefit year with respect to which the individual is eligible to receive retirement benefits or
66 increased retirement benefits.

67 (B) The new weekly benefit amount shall be determined under this Subsection (2).

68 (ii) As recomputed the total benefits potentially payable, commencing with the
69 effective date of the recomputation, shall be equal to the recomputed weekly benefit amount
70 times the quotient obtained by dividing the potential benefits unpaid prior to the recomputation
71 by the initial weekly benefit amount, disregarding fractions.

72 (3) (a) ~~[Each]~~ An eligible individual who is unemployed in any week shall be paid with
73 respect to that week a benefit in an amount equal to the ~~[claimant's]~~ individual's weekly benefit
74 amount less that part of the ~~[claimant's]~~ individual's wage payable to the ~~[claimant]~~ individual

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75 with respect to that week that is in excess of 30% of the ~~[claimant's]~~ individual's weekly
76 benefit amount.

77 (b) The resulting benefit payable shall disregard any fraction of \$1.

78 (c) For the purpose of this Subsection (3) "wages" does not include a grant paid to the
79 ~~[claimant]~~ individual as public assistance.

80 (4) (a) ~~[Any]~~ An otherwise eligible individual is entitled during a benefit year to a total
81 amount of benefits determined by multiplying the individual's weekly benefit amount times the
82 individual's potential duration.

83 (b) To determine an individual's potential duration, the individual's total wages for
84 insured work paid during the base period is multiplied by 27%, disregarding any fraction of \$1,
85 and divided by the individual's weekly benefit amount, disregarding any fraction, but not less
86 than ten nor more than 26.

87 (5) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
88 the department may by rule prescribe:

89 (i) that the existence of unemployment, eligibility for benefits, and the amount of
90 benefits payable shall be determined in the case of ~~[any]~~ an otherwise eligible ~~[claimant]~~
91 individual who, within a week or other period of unemployment, is separated from or secures
92 work on a regular attachment basis for that portion of the week or other period of
93 unemployment occurring before or after separation from or securing of work; and

94 (ii) in the case of ~~[individuals]~~ an individual working on a regular attachment basis,
95 eligibility for benefits and the amount of benefits payable for periods of unemployment longer
96 than a week.

97 (b) The rules made shall be reasonably calculated to secure general results
98 substantially similar to those provided by this chapter with respect to weeks of unemployment.

99 (6) The division shall, in all cases involving actual or potential disqualifying issues and
100 prior to the payment of benefits to an eligible individual, notify the individual's most recent
101 employer of the eligibility determination.

102 (7) Upon written request of an ~~[employee]~~ individual made under rules of the
103 department in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, all
104 remuneration for insured work paid to ~~[an employee]~~ the individual during the ~~[employee's]~~
105 individual's period in the form of a bonus or lump-sum payment shall, for benefit purposes, be
106 apportioned to the calendar quarters in which the remuneration was earned.

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